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PATENT APPLICATION

ATTORNEY DOCKET NO. 10007661-1

IN THE

UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): **Simpson, et al.**

Confirmation No.: **8457**

Application No.: **10/001,721**

Examiner: **Djenane Bayard**

Filing Date: **10/30/01**

Group Art Unit: **2141**

Title: Web-Based Imaging Service Providing Reservation

Mail Stop Appeal Brief-Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF APPEAL BRIEF

Transmitted herewith is the Appeal Brief in this application with respect to the Notice of Appeal filed on 10/6/05.

The fee for filing this Appeal Brief is (37 CFR 1.17(c)) \$500.00.

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

(a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d)) for the total number of months checked below:

1st Month
\$120

2nd Month
\$450

3rd Month
\$1020

4th Month
\$1590

The extension fee has already been filed in this application.

(b) Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account 08-2025 the sum of \$ 500. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed.

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Respectfully submitted,

Simpson, et al.

By

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

In Re Application of:

Simpson, et al.

Group Art Unit: 2141

Serial No.: 10/001,721

Examiner: Bayard, Djenane

Filed: October 30, 2001

Docket No. 10007661-1

For: **Web-Based Imaging Service Providing Reservation**

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Stephanie Riley
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APPEAL BRIEF UNDER 37 C.F.R. §41.37

Mail Stop Appeal Brief - Patents
Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This is an appeal from the decision of Examiner Djenane Bayard, Group Art Unit 2141, mailed July 15, 2005, rejecting claims 1 – 14 in the present application and making the rejection FINAL.

12/06/2005 DTESEM1 00000079 082025 10001721

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I. REAL PARTY IN INTEREST

The real party in interest is Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249 Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

III. STATUS OF THE CLAIMS

Claims 1 – 14 remain pending.

IV. STATUS OF AMENDMENTS

A final Office Action was mailed on July 15, 20005. Applicants responded to that final Office Action on August 12, 2005, at which time arguments for allowability (without amendments) were presented. As per the Advisory Action of September 15, 2005, however, the arguments were deemed unpersuasive. A copy of the current claims is attached hereto as Exhibit A.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The following provides a concise explanation of the subject matter defined in each of the claims involved in the appeal, referring to the specification by page and line number and to the drawings by reference characters, as required by 37 C.F.R. § 41.37(c)(1)(v). Each element of the claims is identified by a corresponding reference to the specification and drawings where applicable. Note that the citation to passages in the specification and drawings for each claim element does not imply that the limitations from the specification and drawings should be read into the corresponding claim element.

In this regard, the invention involves relieving competition between processing jobs sharing a production device, such as a printer. An embodiment of a method (such as recited in independent claim 1) comprises: a. accessing from a user's browser a destination service representing at least one production device (see, for example, FIG. 2B (block 222) and corresponding description at page 15, line 12 to page 17, line 9); b. retrieving said user's imaging information by said destination service (see, for example, FIG. 2B (block 224) and corresponding description at page 15, line 12 to page 17, line 9); c. selecting among production options provided by said destination service for determining a first processing job to process said imaging information using said at least one production device (see, for example, FIG. 2B (block 226) and corresponding description at page 15, line 12 to page 17, line 9); d. estimating the time duration required to process said first processing job using said at least one production device with said selected production options (see, for example, FIG. 2B (block 227) and corresponding description at page 15, line 12 to page 17, line 9); e. providing said user an option of reserving a start time for deferred processing of said first processing job using said at least one production device in accordance with said selected production options (see, for example, FIG. 4 (block 401) and corresponding description at

page 20, line 28 to page 22, line 22); and f. if said user opts to reserve a start time, then setting a first deferred start time, storing said first processing job during a deferral period until said first deferred start time occurs, and then deferred processing said first processing job using said production device in accordance with said selected production options such that, if processing of a second processing job is requested during a time period that includes any remaining portion of the deferral period and the estimated processing time of the first processing job, an option of reserving a second deferred start time for deferred processing of the second job is provided, the second deferred start time occurring after an estimated completion time for deferred processing of said first processing job (see, for example, FIG. 4 (block 402b) and corresponding description at page 20, line 28 to page 22, line 22).

The invention also involves destination services. In this regard, an embodiment of a destination service representing a production device (such as recited in claim 11) is operable to: download content into a browser (see, for example, FIG. 2B (block 223) and corresponding description at page 15, line 12 to page 17, line 9); retrieve first imaging information (see, for example, FIG. 2B (block 224) and corresponding description at page 15, line 12 to page 17, line 9); select, under user interactive control via said content, from among production options for processing said first imaging information using said production device (see, for example, FIG. 2B (block 226) and corresponding description at page 15, line 12 to page 17, line 9); estimate the time duration required to process said first imaging information using said production device in accordance with said selected production options (see, for example, FIG. 2B (block 227) and corresponding description at page 15, line 12 to page 17, line 9); provide an option of reserving a first deferred start time for deferred processing of said first imaging information (see, for example, FIG. 4 (block 401) and corresponding description at page 20, line 28 to page 22, line 22); and if a first

deferred start time is reserved, interactively determine said first deferred start time and implement deferred processing of said first imaging information in accordance with said selected production options such that, if processing of a second processing job using said production device is requested and processing of the second processing job cannot be completed by the production device prior to the first deferred start time of the first processing job, an option of reserving a second deferred start time for deferred processing of the second processing job is provided, the second deferred start time occurring after the estimated completion time for deferred processing of said first processing job (see, for example, FIG. 4 (block 402b) and corresponding description at page 20, line 28 to page 22, line 22).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The final Office Action indicated that claims 1 and 11 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

In Applicants' response to final Office Action, Applicants argued that the rejection was improper, in that the written description requirement was satisfied. The Advisory Action did not specifically address this aspect of the rejections. However, even though Applicants presume that rejection under 35 U.S.C. §112, first paragraph, has been withdrawn, arguments are presented herein for completeness of the record.

The final Office Action also indicated that claims 1, 4 and 11 - 12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Teng* in view of *Shah*; that claims 2 and 10 were unpatentable over *Teng* in view of *Shah* as applied to claim 1, and further in view of *Ban*; and that claims 3, 5, and 6 were unpatentable over *Teng* in view of *Shah* as applied to claim 1, and further in view of *Duke*. Additionally, the final Office Action indicated that

claims 7-9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Teng* in view of *Shah* in view of *Duke* as applied to claim 6, and further in view of *Fan*; and that claims 13-14 were unpatentable over *Teng* in view of *Shah* as applied to claim 1, and further in view of *Fan*. Applicants respectfully traverse the rejections under 35 U.S.C. § 103(a).

VII. ARGUMENT

A. Rejections under 35 U.S.C. § 112, First Paragraph are Improper because Applicants' Disclosure Properly Complies with the Written Description Requirement

The final Office Action indicated that claims 1 and 11 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Applicants respectfully traverse this rejection.

In this regard, Applicants respectfully assert that the limitation of:

... if processing of a second processing job is requested during a time period that includes any remaining portion of the deferral period and the estimated processing time of the first processing job, an option of reserving a second deferred start time for deferred processing of the second job is provided, the second deferred start time occurring after an estimated completion time for deferred processing of said first processing job. . .

is described in the specification in a manner that satisfies the requirements of 35 U.S.C. §112, first paragraph. Specifically, the first paragraph of page 37 discloses:

In a further approach the user is provided an option of reserving a deferred start time for the deferred processing of user's processing job. If the user opts to reserve a deferred start time, then the user sets the deferred start time and user's job is stored, for example in a hard disk when the production device is a printer. *In some implementations setting the deferred start time includes avoiding time periods when the production device is unavailable, for example due to a previous reservation.*

(Emphasis added).

Clearly, setting of a deferred start time to avoid time periods when the production device is unavailable must necessarily include avoiding “a time period that includes any remaining portion of the deferral period and the estimated processing time of the first processing job” because the production device would be unavailable during those time periods. Moreover, there is no limitation present in the disclosure on the number of processing jobs that can have deferred start times, thus, recitation of a second deferred start time is fully supported. Therefore, Applicants respectfully request that the rejection under 35 U.S.C. §112, first paragraph, be withdrawn if such rejections are in fact still pending.

B. Rejections under 35 U.S.C. § 103 are Improper for Failing to Provide References that Teach or Reasonably Suggest All of the Limitations of Applicants’ Claims

The final Office Action also indicated that claims 1, 4 and 11 - 12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Teng* in view of *Shah*; that claims 2 and 10 were unpatentable over *Teng* in view of *Shah* as applied to claim 1, and further in view of *Ban*; and that claims 3, 5, and 6 were unpatentable over *Teng* in view of *Shah* as applied to claim 1, and further in view of *Duke*. Additionally, the final Office Action indicated that claims 7-9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Teng* in view of *Shah* in view of *Duke* as applied to claim 6, and further in view of *Fan*; and that claims 13-14 were unpatentable over *Teng* in view of *Shah* as applied to claim 1, and further in view of *Fan*. Applicants respectfully traverse the rejections under 35 U.S.C. § 103(a).

In this regard, the Advisory Action indicates that:

Applicant’s arguments have been considered but they are not persuasive. Applicant argues that “Shah does not contemplate the use of multiple deferred start times.” However, Shah clearly teaches a job scheduler component that is capable of scheduling print jobs based on a custom scheduling scheme. Thus giving the user the option of customizing the schedule of print jobs.

Assuming, *arguendo*, that the above is a proper interpretation of *Shah*, Applicants respectfully assert that the aforementioned teaching does not disclose or reasonably suggest the features recited in Applicants' claims. Therefore, Applicants respectfully assert that the rejection is improper and respectfully request the Board to place the pending claims in condition for allowance for the reasons set forth in detail below.

With respect to *Teng*, Applicants respectfully agree with the contention of the final Office Action indicating that *Teng* does not teach if processing of a second processing job is requested during a time period that includes any remaining portion of the deferral period and the estimated processing time of the first processing job, an option of reserving a second deferred start time for deferred processing of the second job is provided, the second deferred start time occurring after an estimated completion time for deferred processing of said first processing job, as generally recited in claims 1 and 11. However, Applicants respectfully disagree with the contention that *Shah* teaches such features.

With respect to *Shah*, that reference generally involves:

a scheduling scheme that uses an estimated rasterization execution time (RET) to improve the productivity of printers, particularly color printers. Because print jobs have different levels of complexities, a longer RET may be required for some jobs than for others. For example, a print job which includes color graphics, color print, different font changes or a variety of style formats such as, italic, bold and other styles, will have a longer RET than a simple black and white print job. *If a print job is pre-scanned to estimate the RET before the print job arrives at the printer, it is possible to schedule those print jobs with a shorter RET ahead of those print jobs with a longer RET, thus improving productivity of the printer.*
(*Shah*, Abstract). (Emphasis added).

Additionally, *Shah* discloses:

Since the majority of print jobs fall into the simple category, users are frustrated with waiting for complex jobs to finish which were submitted ahead of their jobs. Therefore, *to balance the functions between the ESS and the IOT, the present invention uses a two queue approach. For example, the print jobs which require a minimum amount of time for the ESS to process, i.e., the simple jobs, are placed in one queue, e.g., a*

simple queue, and the print jobs which are more complex and time consuming for the ESS are placed in a second queue, e.g., a complex queue. The print jobs which are in the simple queue are ripped and printed first, even if these print jobs arrive after the complex jobs, and then the print jobs in the complex queue are processed. This reduces the IOT idle time which significantly improves the wait time for simple print jobs.

A print driver, preferably located in the workstation, pre-scans a document and takes the document file and converts it into a postscript (page description language, PDL) print ready file. Additionally, the print driver attaches a header to the file. The header will identify the complexity level of the document file, including whether the file is color or black and white, e.g., simple or complex. The printer, or print server, will read the header information and, based on the header information, schedules the print jobs by placing the document file into an appropriate queue, e.g., a simple queue or a complex queue. *Print jobs in the simple queue will have a higher priority than print jobs in the complex queue.*

The two queue approach is for simplicity purposes. *Alternatively, a single queue can be used in which the jobs are arranged in ascending order of their RET estimates. The jobs with the smallest RET estimates will be ripped and printed first.*

(Shah, column 1, line 64 through column 2, line 29). (Emphasis added).

Clearly, *Shah* involves estimation of processing times of print jobs.

As indicated in the final Office Action, *Shah* also teaches:

FIG. 4 shows a flowchart outlining one exemplary embodiment of the method for scheduling documents in a networked printer environment in accordance with the systems and methods of the invention. As shown in FIG. 4, the process begins in step S100, and continues to step S110, where the system, during a PDL conversion scan, estimates the rasterization execution time (RET) for the document. Next in step S120, the system places the RET estimate in a file header. Then, in step S130, the system sends the PDL converted document with the file header to a print scheduler, such as a print server. Control then continues to step S140.

In step S140, the system develops a custom priority scheme based on the file header. *The custom priority scheme allows a user to override any RET generated priority. For example, if a user has an important color print job with a long RET, the custom priority scheme will allow this particular print job to be advanced before other prints jobs, regardless of their RET.* The custom priority scheme will look at the RET estimates and any override flags that may be set and schedule jobs accordingly. Then in step S150, the system schedules the documents for printing in an increasing order of their RET estimates. *Simple jobs will normally go first and complex jobs thereafter, unless a priority override is in place.*

(*Shah*, column 4, lines 41 - 64). (Emphasis added).

Thus, *Shah* does teach that an override can be used to alter the print priority.

However, *Shah* additionally discloses the following:

In step S160, *if no priority override flag is in place, the system prints documents with the shortest RET first*. Control then goes to step S170, where the control process ends.

(*Shah*, column 4, lines 65 - 67). (Emphasis added).

Although *Shah* permits the print priority based on RET to be overridden, absent such an override, *Shah's* system prints documents with the shortest RET first. That is, *Shah* teaches a specific print priority scheme that can be overridden. However, Applicants' claims recite a patentably distinct priority scheme, as is described in detail below.

With respect to the claims, the claims do not stand or fall together. Instead, Applicants present separate arguments for various independent and dependent claims. Each of these arguments is separately argued below and presented with separate headings and sub-heading as required by 37 C.F.R. § 41.37(c)(1)(vii) as follows: claims 1 - 10, with claim 1 representing this group; and claims 11 - 14, with claim 11 representing this group.

B. Independent Claim 1 and Dependent Claims 2 - 10

In this regard, claim 1 recites:

1. A method of relieving competition between processing jobs sharing a production device, said method comprising:
 - a. accessing from a user's browser a destination service representing at least one production device;
 - b. retrieving said user's imaging information by said destination service;
 - c. selecting among production options provided by said destination service for determining a first processing job to process said imaging information using said at least one production device;
 - d. estimating the time duration required to process said first processing job using said at least one production device with said selected production options;

- e. providing said user an option of reserving a start time for deferred processing of said first processing job using said at least one production device in accordance with said selected production options; and
- f. if said user opts to reserve a start time, then setting a first deferred start time, storing said first processing job during a deferral period until said first deferred start time occurs, and then deferred processing said first processing job using said production device in accordance with said selected production options such that, *if processing of a second processing job is requested during a time period that includes any remaining portion of the deferral period and the estimated processing time of the first processing job, an option of reserving a second deferred start time for deferred processing of the second job is provided, the second deferred start time occurring after an estimated completion time for deferred processing of said first processing job.*

(Emphasis added).

Applicants respectfully assert that the cited references, either individually or in combination, fail to teach or reasonably suggest at least the features/limitations emphasized above in claim 1. In particular, although Shah uses RET's to establish a printing priority for print jobs, Shah does not contemplate the use of multiple deferred start times, much less deferred start times that are established in the manner recited above. Additionally, none of the other references or combinations thereof teach or reasonably suggest this feature either.

Therefore, Applicants respectfully assert that claim 1 is in condition for allowance.

Since claims 2 - 10 are dependent claims that incorporate the features of claim1, Applicants respectfully assert that these claims also are in condition for allowance. Additionally, these claims recite other features that can serve as an independent basis for patentability.

C. Independent Claim 11 and Dependent Claims 12 - 14

With respect to claim 11, that claim recites:

11. A destination service representing a production device, said destination service operable to:
 - download content into a browser;
 - retrieve first imaging information;

download content into a browser;
retrieve first imaging information;
select, under user interactive control via said content, from among production options for processing said first imaging information using said production device;
estimate the time duration required to process said first imaging information using said production device in accordance with said selected production options;
provide an option of reserving a first deferred start time for deferred processing of said first imaging information; and
if a first deferred start time is reserved, interactively determine said first deferred start time and implement deferred processing of said first imaging information in accordance with said selected production options such that, *if processing of a second processing job using said production device is requested and processing of the second processing job cannot be completed by the production device prior to the first deferred start time of the first processing job, an option of reserving a second deferred start time for deferred processing of the second processing job is provided, the second deferred start time occurring after the estimated completion time for deferred processing of said first processing job.*

(Emphasis added).

Applicants respectfully assert that the cited references, either individually or in combination, fail to teach or reasonably suggest at least the features/limitations emphasized above in claim 11. In particular, although Shah uses RET's to establish a printing priority for print jobs, Shah does not contemplate the use of multiple deferred start times, much less deferred start times that are established in the manner recited above. Additionally, none of the other references or combinations thereof teach or reasonably suggest this feature either. Therefore, Applicants respectfully assert that claim 11 is in condition for allowance.

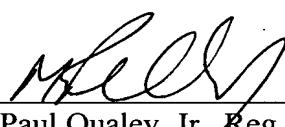
Since claims 12 - 14 are dependent claims that incorporate the features of claim 11, Applicants respectfully assert that these claims also are in condition for allowance. Additionally, these claims recite other features that can serve as an independent basis for patentability.

CONCLUSION

Based upon the foregoing discussion, Applicants respectfully request that the Examiner's final rejection of the pending claims be overruled and withdrawn by the Board, and that the application be allowed to issue with all pending claims.

Please charge Hewlett-Packard Company's deposit account 08-2025 for the filing of this Appeal Brief. No additional fees are believed to be due in connection with this Appeal Brief. If, however, any additional fees are deemed to be payable, you are hereby authorized to charge any such fees to deposit account No. 08-2025.

Respectfully submitted,


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VIII. CLAIMS - APPENDIX

1. (Previously Presented) A method of relieving competition between processing jobs sharing a production device, said method comprising:
 - a. accessing from a user's browser a destination service representing at least one production device;
 - b. retrieving said user's imaging information by said destination service;
 - c. selecting among production options provided by said destination service for determining a first processing job to process said imaging information using said at least one production device;
 - d. estimating the time duration required to process said first processing job using said at least one production device with said selected production options;
 - e. providing said user an option of reserving a start time for deferred processing of said first processing job using said at least one production device in accordance with said selected production options; and
 - f. if said user opts to reserve a start time, then setting a first deferred start time, storing said first processing job during a deferral period until said first deferred start time occurs, and then deferred processing said first processing job using said production device in accordance with said selected production options such that, if processing of a second processing job is requested during a time period that includes any remaining portion of the deferral period and the estimated processing time of the first processing job, an option of reserving a second deferred start time for deferred processing of the second job is provided, the second deferred start time occurring after an estimated completion time for deferred processing of said first processing job.

2. (Previously Presented) The method of claim 1 wherein said first processing job is stored in a medium selected from the group consisting of a hard disk and an image store associated with said user's identity.
3. (Previously Presented) The method of claim 1 wherein said setting said first deferred start time includes avoiding conflict with unavailable deferred start times of said production device.
4. (Previously Presented) The method of claim 1 further comprising estimating the resources required to process said first processing job using said production device with said selected production options.
5. (Previously Presented) The method of claim 4 wherein setting further comprises reserving quantities of said respective resources required to process said first processing job during said deferral period.
6. (Previously Presented) The method of claim 5 wherein said reserved resources required to process said first processing job are monitored during said deferral period.
7. (Original) The method of claim 6 wherein during said deferral period a warning message is displayed whenever any of said reserved resources is depleted to a quantity not greater than said reserved quantity of said reserved resource.

8. (Original) The method of claim 7 wherein during said deferral period said reserved resources are reported as if said reserved quantities of said reserved resources had already been consumed.
9. (Original) The method of claim 7 wherein during said deferral period said warning message is removed if said reserved resources are replenished above said reserved quantity.
10. (Previously Presented) The method of claim 1 further comprising interrupting an existing processing job having a first arrived at priority, that is currently using a production device, such that another processing job can use said production device, said another processing job having a second arrived at priority different from said first arrived at priority.

11. (Previously Presented) A destination service representing a production device, said destination service operable to:
 - download content into a browser;
 - retrieve first imaging information;
 - select, under user interactive control via said content, from among production options for processing said first imaging information using said production device;
 - estimate the time duration required to process said first imaging information using said production device in accordance with said selected production options;
 - provide an option of reserving a first deferred start time for deferred processing of said first imaging information; and
 - if a first deferred start time is reserved, interactively determine said first deferred start time and implement deferred processing of said first imaging information in accordance with said selected production options such that, if processing of a second processing job using said production device is requested and processing of the second processing job cannot be completed by the production device prior to the first deferred start time of the first processing job, an option of reserving a second deferred start time for deferred processing of the second processing job is provided, the second deferred start time occurring after the estimated completion time for deferred processing of said first processing job.

12. (Original) The destination service of claim 11 further operable to estimate resources required to process said imaging information in accordance with said selected production options.

13. (Original) The destination service of claim 12 further operable to reserve until said deferred start time said required resources in quantities sufficient to process said imaging information in accordance with said selected production options.

14. (Original) The destination service of claim 13 further operable to monitor until said deferred start time said required resources and to display a warning message whenever any of said reserved resources is depleted to a quantity not greater than said reserved quantity of said reserved resource.

15. - 20. (Canceled)

IX. EVIDENCE - APPENDIX

None.

IX. RELATED PROCEEDINGS- APPENDIX

None.